



**THE HON PETER DUTTON MP
MINISTER FOR HOME AFFAIRS**

Ref No: MS18-010930

Committee Secretary
Senate Standing Committee on
Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Thank you for your invitation to make a submission addressing the terms of reference to the Parliamentary Scrutiny of Delegated Legislation Inquiry.

I have asked the Department of Home Affairs to reflect on their work with the Senate Standing Committee on Regulations and Ordinances (the Committee) over the last few years in relation to delegated legislation. Below are their views, which I endorse, in response to the inquiry's terms of reference.

Continuing effectiveness of the Committee

It is the Department's view that the Committee effectively fulfils its role and function in providing important oversight in relation to the making of delegated legislation. The Committee's current powers enable it to examine the technical qualities of disallowable instruments of delegated legislation and decide whether they comply with the Committee's scrutiny principles focussing on statutory requirements, the protection of individual rights and liberties, and ensuring appropriate parliamentary oversight. Overall, the Department considers that the Committee's powers remain appropriate and do not require change.

Adequacy of the existing framework

The Committee's role to examine and oversee delegated legislation, in accordance with the scrutiny principles, forms an essential part of the framework for parliamentary control of legislation. We find that the current framework is adequate and does not need enhancement. The processes for the registration, tabling and possible disallowance of legislative instruments, together with the scrutiny and engagement with Ministers provided by the Committee, and regular reporting in the form of the Delegation Legislation Monitors, effectively ensure there is an appropriate framework for scrutiny of delegated legislation.

Other comments: Response timeframes

We note that the Committee's powers include raising concerns with, and seeking further information from, relevant Ministers in relation to the Committee's scrutiny of delegated legislation. The Committee provides a standard two week timeframe to respond to such correspondence. The need for careful consideration of the Committee's concerns, consultation with various areas within the Department, and clearance processes, means that the two week timeframe can be difficult to meet. This results in requests by the Department for extensions of the response period. I acknowledge the framework which the Committee works within, including consideration of disallowance periods, and appreciate the Committee's willingness to provide extensions when sought. However, we wish to raise whether consideration could be given to lengthening the standard timeframe for response.

The contact officer in the Department,
Legislation Branch, can be contacted on

, Assistant Secretary of
or by email at

Yours sincerely

PETER DUTTON

31/01/19